

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Brandon Dale Lowery,

Plaintiff,

v.

Fusion Center/ Homeland Security, et al.,

Defendants.

Case No. 2:23-cv-1416-JAD-BNW

ORDER

Pro se Plaintiff Brandon Lowery brings this lawsuit and moves to proceed *in forma pauperis* (IFP). See ECF No. 1. Plaintiff submitted the affidavit required by 28 U.S.C. § 1915(a)(1) showing an inability to prepay fees or costs or give security for them. Accordingly, the Court will grant his request to proceed *in forma pauperis*. The court now screens Plaintiff's complaint.

I. ANALYSIS

A. Screening standard

Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable claims and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must "contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes pro se complaints and may only dismiss them "if it appears beyond doubt that the plaintiff can prove no set of facts in support of

1 his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir.
2 2014) (quoting *Iqbal*, 556 U.S. at 678).

3 In considering whether the complaint is sufficient to state a claim, all allegations of
4 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylor*
5 *Summit P’ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).
6 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
7 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
8 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*
9 Unless it is clear the complaint’s deficiencies could not be cured through amendment, a pro se
10 plaintiff should be given leave to amend the complaint with notice regarding the complaint’s
11 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

12 **B. Screening the complaint**

13 Plaintiff’s complaint does not contain sufficient information for the Court to assess
14 whether he can state a claim. Plaintiff’s complaint contains only a few factual allegations. *See*
15 ECF No. 1-1. Plaintiff states he has video supporting his claims and that he has lost everything
16 based on the illegal acts of the named defendants. *Id.* As a result of these bare allegations,
17 Plaintiff seeks millions of dollars in damages. *Id.*

18 Even liberally construing Plaintiff’s complaint, it does not contain sufficient factual
19 allegations for the Court to assess whether Plaintiff can state a claim. Accordingly, the Court will
20 dismiss Plaintiff’s complaint without prejudice and with leave to amend. To help Plaintiff file a
21 properly formatted complaint, the Court advises Plaintiff of the following requirements under the
22 Federal Rules of Civil Procedure.

23 First, Plaintiff is advised that he must specify which claims he is alleging against which
24 defendants. Although the Federal Rules of Civil Procedure adopt a flexible pleading policy,
25 Plaintiff still must give defendants fair notice of each of the claims he is alleging against each
26 defendant. Specifically, he must allege facts showing how each named defendant is involved and
27 the approximate dates of their involvement. Put another way, Plaintiff should tell the Court, in
28 plain language, what each defendant did to him and when. “While legal conclusions can provide

1 the framework of a complaint, they must be supported with factual allegations.” *Ashcroft v. Iqbal*,
2 556 U.S. 662, 679 (2009).

3 Second, Plaintiff’s amended complaint must be short and plain. The simpler and more
4 concise Plaintiff’s complaint, the easier it is for the Court to understand and screen it. The Federal
5 Rules also require this. Under Federal Rule of Civil Procedure 8, Plaintiff’s amended complaint
6 must contain “a short and plain statement of the claim showing that [Plaintiff] is entitled to
7 relief.” Fed. R. Civ. P. 8(a)(2). “Each allegation must be simple, concise, and direct.” Fed. R.
8 Civ. P. 8(d)(1). “A party must state its claims or defenses in numbered paragraphs, each limited
9 as far as practicable to a single set of circumstances.” Fed. R. Civ. P. 10(b). “[E]ach claim
10 founded on a separate transaction or occurrence . . . must be stated in a separate count.” *Id.*

11 Third, Plaintiff may not raise multiple unrelated claims in a single lawsuit. The Federal
12 Rules of Civil Procedure do not permit a litigant to raise unrelated claims involving different
13 defendants in a single action. A basic lawsuit is a single claim against a single defendant. Federal
14 Rule of Civil Procedure 18(a) allows a plaintiff to add multiple claims to the lawsuit when those
15 claims are against the same defendant. Federal Rule of Civil Procedure 20(a) allows a plaintiff to
16 add multiple parties to a lawsuit where the right to relief arises out of the “same transaction,
17 occurrence, or series of transactions or occurrences.” Fed. R. Civ. P. 20(a)(2)(A). “However,
18 unrelated claims that involve different defendants must be brought in separate lawsuits.” *Bryant v.*
19 *Romero*, No. 1:12-CV-02074-DLB PC, 2013 WL 5923108, at *2 (E.D. Cal. Nov. 1, 2013) (citing
20 *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007)). This rule is intended to avoid confusion,
21 which arises out of bloated lawsuits.

22 Lastly, Plaintiff’s amended complaint must be complete in and of itself. If Plaintiff
23 chooses to file an amended complaint, he is advised that an amended complaint supersedes the
24 original complaint and, thus, the amended complaint must be complete by itself. *See Hal Roach*
25 *Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that
26 “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading
27 supersedes the original”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012)
28 (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such

1 claims in a subsequent amended complaint to preserve them for appeal). Plaintiff's amended
2 complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to
3 pursue in this lawsuit. Moreover, Plaintiff must file his amended complaint on this Court's
4 approved form, which the Clerk of Court will send Plaintiff.

5 **II. CONCLUSION**


6 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*
7 *pauperis* (ECF No. 1) is **GRANTED**.

8 **IT IS FURTHER ORDERED** that the Clerk of Court must detach and separately file
9 Plaintiff's complaint (ECF No. 1-1).

10 **IT IS FURTHER ORDERED** that Plaintiff's complaint is dismissed without prejudice.

11 **IT IS FURTHER ORDERED** that if Plaintiff wishes to file an amended complaint, he
12 must do so by October 9, 2023. Failure to comply with this order will result in a recommendation
13 that this case be dismissed.

14 DATED: September 18, 2023

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18 BREND A WEKSLER
19 UNITED STATES MAGISTRATE JUDGE
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